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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. CR-09-43-SPF

LINDSEY KENT SPRINGER and  
OSCAR AMOS STILLEY,

Defendants.

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TRANSCRIPT OF DIGITALLY RECORDED HEARING  
BEFORE THE HONORABLE PAUL CLEARY  
UNITED STATES MAGISTRATE JUDGE  
MARCH 30, 2009

1 APPEARANCES:

2 FOR THE GOVERNMENT:

3 Kenneth P. Snoke  
4 US Attorneys Office (Tulsa)  
5 110 W. 7th Street, Ste. 300  
6 Tulsa, OK 74119

7 FOR DEFENDANT SPRINGER:

8 Lindsey Kent Springer  
9 5147 S. Harvard Ave.  
10 Ste. 116  
11 Tulsa, OK 74135

12 FOR DEFENDANT STILLEY:

13 Oscar Amos Stilley  
14 7103 Race Track Loop  
15 Ft. Smith, AR 72901  
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1 THE CLERK: On Case Number 09-CR-43-CLK, USA v.  
2 Lindsey Kent Springer and Oscar Amos Stilley. Please state  
3 your appearances.

4 MR. SNOKE: Kenneth Snoke on behalf of the United  
5 States, Your Honor.

6 THE COURT: Mr. Snoke.

7 MR. SPRINGER: Lindsey Springer, limited appearance,  
8 Your Honor.

9 THE COURT: All right.

10 MR. STILLEY: Oscar Stilley, limited and special  
11 appearance.

12 THE COURT: Okay. All right. Mr. Springer,  
13 Mr. Stilley, can I get you folks to step up to the podium  
14 because I'm going to need to talk to you both a bit here. When  
15 we had you in before on your initial appearance and  
16 arraignment, I had counsel appointed for you just for that  
17 hearing, just to make sure that your rights were protected and  
18 we moved along here. And, originally, I had scheduled this,  
19 that you were going to file something to let me know how you  
20 were going to proceed, if you were going retain counsel, ask  
21 the Court to appoint counsel, or go pro se. So it seemed to me  
22 that it would be easier just to bring everybody in and we'll  
23 get this done, I hope, rather quickly.

24 And then I also want to know when everybody is going to be  
25 ready for trial, what kind of a trial date you're looking for,

1 whether it's something that you think you can be ready for  
2 within three or four months or whether it's something that you  
3 might want to wait until the fall, be ready then, so -- all  
4 right.

5 Let me start off here advising both the defendants, as you  
6 know, you have a constitutional right to representation of  
7 counsel in this matter. You can hire your own attorney to  
8 represent you and you would have to pay that attorney with your  
9 own money. If you're financially unable to afford counsel,  
10 counsel will be appointed for you. To qualify for appointed  
11 counsel, you'll have to satisfy the Court that you're  
12 financially unable to obtain counsel. That is, that you do not  
13 have sufficient income, property, or other resources to go out  
14 and hire your own private attorney.

15 Any statement that you are financially unable to hire  
16 counsel would have to be made under oath. Normally, we do that  
17 with a financial affidavit that you fill out that indicates to  
18 me your income and what expenses you have, et cetera. It also  
19 can be done in open court if we administer an oath to you and  
20 you swear to tell the truth and then advise me that you don't  
21 have resources to hire private counsel. In either case,  
22 whether it's on the affidavit or in open court, your statements  
23 must be truthful or you could be subject to a subsequent  
24 prosecution for perjury.

25 You also have a constitutional right to represent

1 yourself. You can refuse counsel and represent yourself. For  
2 a host of reasons, I strongly urge you not to go down that  
3 path. The charges against you are serious. If you're  
4 convicted, you could face significant prison time and fines.  
5 Criminal sentences could be imposed consecutively, for  
6 example. A five-year sentence for failure to file a tax return  
7 and a five-year sentence for one of the other counts, if  
8 they're served consecutively, would be a total of ten years.

9 I think -- and correct me, Mr. Snoke, on this other -- I  
10 think each of these charges is up to five years; isn't that  
11 right? The conspiracy, the three tax evasion, and the two  
12 failures to file?

13 MR. SNOKE: The failure-to-file charges are  
14 misdemeanors, Your Honor, one-year --

15 THE COURT: Well, they alleged in the indictment they  
16 were willful, so I thought maybe that was --

17 MR. SNOKE: No, it's -- they're still misdemeanors.

18 THE COURT: Okay. All right. Well, in that case,  
19 those are one-year sentences.

20 MR. SNOKE: Conspiracy is five years. The 7201 is a  
21 five-year --

22 THE COURT: Okay. All right. So in that case,  
23 Mr. Springer, I think you would be looking at about 22 years,  
24 potentially. Five on the conspiracy; the three tax evasions,  
25 five each; there's 20; and a year each on the failures to fail.

1 And, Mr. Stilley, you would be looking at 15. Five on the  
2 conspiracy and potentially up to five each on the evasion  
3 charges. Just so you'll know.

4 And I think the biggest fine is on the tax evasion is up  
5 to \$100,000 on those. So you're also looking at some  
6 significant -- potentially some very significant fines. So I  
7 want you to understand all of that. And given the situation  
8 and the problems that one unskilled in the law faces -- and I  
9 recognize, Mr. Stilley, that you have a law degree, but you've  
10 lost your license, at least in Arkansas, so I'm going to treat  
11 you the same as Mr. Springer here for purposes of this specific  
12 issue. Given this situation, I urge both of you either to hire  
13 private counsel or provide me with sufficient evidence that  
14 you're financially unable to do so and let the Court appoint  
15 counsel for you.

16 Now, having said all of that, let me ask you first, have  
17 either of you retained private counsel in this case?  
18 Mr. Springer?

19 MR. SPRINGER: No, Your Honor, I have not.

20 THE COURT: Okay. And, Mr. Stilley?

21 MR. STILLEY: No, Your Honor.

22 THE COURT: All right. Do either of you have plans  
23 to do so? Mr. Springer?

24 MR. SPRINGER: Your Honor, at this point, if I answer  
25 any of these questions right now, can these wind up being used

1 in the trial against me? Because part of the charges that are  
2 in the indictment are that somehow I was offering services --  
3 legal services and so I'm concerned at this point, one, is that  
4 anything that I say here could be used against me in a court  
5 and, second of all, that the government is here and we're on  
6 the record.

7 THE COURT: Right.

8 MR. SPRINGER: I did file two -- a motion and a  
9 memorandum asking to go in camera on the 18th dealing with the  
10 Fifth Amendment.

11 THE COURT: Uh-huh.

12 MR. SPRINGER: That has obviously not been assigned  
13 yet because we don't have a judge assigned to it.

14 THE COURT: Right. Right.

15 MR. SPRINGER: So I'm concerned at this point about  
16 anything I say. And this is one of the problems we ran into  
17 with the affidavit.

18 THE COURT: Okay.

19 MR. SPRINGER: Because it's asking for financial  
20 information that even trying to consider giving up the Fifth  
21 Amendment to keep the Sixth Amendment --

22 THE COURT: Uh-huh.

23 MR. SPRINGER: -- or 28 USC 1654, which is the  
24 statutory right at issue --

25 THE COURT: Well, Mr. Springer, all I -- at some

1 point here, and this is the point, you have to tell the Court,  
2 do you want the Court to try and appoint counsel for you or are  
3 you going to hire counsel or do you want to go pro se?

4 MR. SPRINGER: I am going to represent myself, Your  
5 Honor, pro se.

6 THE COURT: All right. And, Mr. Stilley, what is  
7 your view on that? Are you going to hire private counsel, ask  
8 the Court for counsel, or represent yourself?

9 MR. STILLEY: Your Honor, I've made inquiry of  
10 counsel experienced in this field and, honestly, I think that I  
11 would be just crippled in getting a proper quote from any firm  
12 without first knowing what the proposed tax deficiency by the  
13 government is. Because, as we all know, that's what drives the  
14 sentence in a case such as this. And also the -- I would need  
15 the particulars to know specifically what the charges are.

16 Counsel experienced in this type of case want to know  
17 those details. And, surely, I would think that we would be  
18 able to get that within a reasonable time. And I think it  
19 would be fair before I make a decision about this topic to  
20 announce to the Court that I at least have a determination from  
21 the Court and the ability to represent to attorneys about what  
22 information we have concerning the charge.

23 THE COURT: Well, what you have is an indictment.  
24 And that's the information that you have, Mr. Stilley. And  
25 you're going to have to make your decision based on that.



1 MR. STILLEY: Well, if I knew that the government  
2 would not be allowed to rely upon any allegations except those  
3 specifically stated in the indictment for the purposes of  
4 seeking a conviction or driving a sentence, then I would be  
5 prepared to make my decision on counsel. Is that what the  
6 Court is representing to me?

7 THE COURT: What I'm telling you is that the  
8 indictment says what the indictment says. Now, this is no  
9 different than any other criminal case. I mean, you know what  
10 the charges are. There's a conspiracy charge to defraud the  
11 government and you're charged in addition with Mr. Springer on  
12 two charges of tax evasion, aiding him and working with him in  
13 tax evasion. Those are the charges.

14 You can either -- as I say, you can either hire private  
15 counsel -- if you have the resources to do it, then that  
16 certainly is a path that's open to you. If you don't have the  
17 resources and you want counsel, you just need to sign the  
18 affidavit or represent to me under oath that you don't have the  
19 resources to hire private counsel and then we can look into  
20 appointing someone for you. But you've got to make that  
21 decision now based on the information. There's -- you know,  
22 you have the indictment in front of you. You have had it for  
23 some time and you've had an opportunity to make this decision.  
24 So it's -- it is decision time.

25 MR. STILLEY: Okay. Do I understand correctly, then,

1 that the government will not be allowed to go outside the  
2 indictment?

3 THE COURT: I'm not making any representations about  
4 that, Mr. Stilley. There could be amendments to the  
5 indictment. There could be changes here. I'm telling you that  
6 you have an indictment and you need to rely on that in making  
7 your decision on whether (unintelligible). The decision really  
8 is, do you want counsel appointed for you and are you without  
9 the means to hire private counsel? And if that's the case,  
10 then we'll go down that road.

11 MR. STILLEY: Well, certainly, I've got the same  
12 problems, the Fifth Amendment issues that Mr. Springer has  
13 addressed. I don't think it's necessary for me to trouble the  
14 record with restating those.

15 THE COURT: Uh-huh.

16 MR. STILLEY: But at this point in time, I just don't  
17 feel that I have enough information or commitment from the  
18 government in order to make such an important decision. And I  
19 think that I will have sufficient information within a  
20 reasonably short period of time, after we get rulings on the  
21 motions for bill of particulars. I've got a motion for bill of  
22 particulars that should be filed sometime today.

23 THE COURT: Well, let me ask you this, Mr. Stilley:  
24 You have not retained private counsel, correct?

25 MR. STILLEY: Correct.

1 THE COURT: And you haven't submitted an affidavit or  
2 asked the Court to appoint counsel for you?

3 MR. STILLEY: No.

4 THE COURT: That leaves option three. So at this  
5 point, I guess at least, you're going to -- your plan is to  
6 represent yourself, at least until something changes, then  
7 you'll make your decision at that time.

8 MR. STILLEY: I don't think I have any other option.

9 THE COURT: All right. All right. Let me ask you,  
10 then, let me start with Mr. Springer, because I want to make  
11 sure that we understand what's going on here if you get on the  
12 path towards representing yourself.

13 MR. SPRINGER: Certainly.

14 THE COURT: Mr. Springer, first off, you're not under  
15 the influence of any medication or anything that would make it  
16 impossible for you to answer my questions correctly here today,  
17 are you?

18 MR. SPRINGER: No, I am not, Your Honor.

19 THE COURT: Okay. Have you ever studied law? That  
20 is -- and by that I mean have you attended a law school?

21 MR. SPRINGER: Your Honor, this is where the Fifth  
22 Amendment and the Sixth Amendment really run into a clash right  
23 now because of what I said earlier, because part of this case  
24 and part of the charges in this case are that I was providing  
25 legal services instead of receiving gifts.

1 THE COURT: Uh-huh.

2 MR. SPRINGER: And so I would rather not answer that  
3 question on the grounds that it may incriminate me.

4 THE COURT: Okay. All right. Have you ever  
5 represented yourself in a criminal matter?

6 MR. SPRINGER: No.

7 THE COURT: Okay. You understand that you're charged  
8 with the following crimes: conspiracy to defraud the  
9 government, one count; tax evasion, three counts; and failure  
10 to file a tax return, two counts. Do you understand that?

11 MR. SPRINGER: Word for word, Your Honor.

12 THE COURT: And you understand that if you're found  
13 guilty, the Court can impose a \$100 special assessment for each  
14 charge, each felony charge, sentence you to prison on the first  
15 two -- on the conspiracy count and the tax evasion counts, up  
16 to five years on each of those, up to one year on the two  
17 failures to file, since they'll be misdemeanors, as I  
18 understand it. They could also assess substantial fines  
19 against you and direct you to pay restitution. Do you  
20 understand all that?

21 MR. SPRINGER: Yes, sir, I do. I believe I  
22 understand.

23 THE COURT: Okay. And you understand that if you  
24 were convicted, the Court could, as I mentioned before, either  
25 order your sentences served concurrently, meaning all at once,

1 or consecutively, that is one after another. So that would  
2 make a big difference. But you understand that?

3 MR. SPRINGER: Yes, sir, I do.

4 THE COURT: And do you understand that there are  
5 advisory sentencing guidelines that might have an effect on  
6 your sentences if you're found guilty?

7 MR. SPRINGER: I'll have to claim the Fifth Amendment  
8 on that one, Your Honor.

9 THE COURT: Okay. You understand that if you  
10 represent yourself, you're on your own. The Court can't tell  
11 you or advise you how to try the case. You understand that?

12 MR. SPRINGER: Yes, I understand that.

13 THE COURT: Okay. Are you familiar with the Federal  
14 Rules of Evidence?

15 MR. SPRINGER: I'll have to claim the Fifth Amendment  
16 on that.

17 THE COURT: Okay. The rules of evidence govern what  
18 evidence may or may not be introduced at trial and you'll have  
19 to abide by those technical rules if you represent yourself.  
20 They will not be relaxed for your benefit. Do you understand  
21 that?

22 MR. SPRINGER: (no response)

23 THE COURT: In other words, you'll be playing by the  
24 same rules of evidence that the government has to play with.  
25 There won't be any --

1 MR. SPRINGER: My understanding is all the rules will  
2 be fair on both sides and that all the rules will -- is what  
3 the Court will govern the case by.

4 THE COURT: Right. But there's not --

5 MR. SPRINGER: And, yes, generally, I understand  
6 that. But, specifically, I can't -- my Fifth Amendment is  
7 going to keep popping up if I --

8 THE COURT: All right. But I just want to make sure  
9 you understand that just because you go ahead and represent  
10 yourself and -- that the Court is not going to change the rules  
11 for you because of that.

12 MR. SPRINGER: It has been my experience in other  
13 times in watching other cases, yes, Your Honor, that that's the  
14 truth.

15 THE COURT: Okay. Are you familiar with the Federal  
16 Rules of Criminal Procedure?

17 MR. SPRINGER: I have to claim the Fifth Amendment on  
18 that, but I would say that I have a copy of it.

19 THE COURT: Okay. And, again, you understand that  
20 those rules govern the way a criminal action is tried in this  
21 Court and you'll be bound by those rules and they will not be  
22 relaxed for your benefit?

23 MR. SPRINGER: Only in a general sense, yes, I  
24 understand that.

25 THE COURT: Okay. I want to advise you that, in my

1 opinion, a trained lawyer would defend you far better than you  
2 can defend yourself. And I think it's very unwise of you to  
3 try to represent yourself. You don't -- you seem to have some  
4 familiarity with the law, but not a great deal. I'm not sure  
5 that you're very familiar with court procedure or with the  
6 rules of evidence and I would strongly urge you not to try to  
7 represent yourself.

8 Now, in light of the penalty that you might suffer, or  
9 penalties, if you're found guilty, and in light of all the  
10 difficulties of representing yourself, do you still want to  
11 represent yourself and give up your right to be represented by  
12 an attorney?

13 MR. SPRINGER: I -- I don't want to give up any  
14 rights. Okay?

15 THE COURT: Uh-huh.

16 MR. SPRINGER: But at this time, the only option that  
17 I believe that I have that is to my best interest is to  
18 represent myself. That could change. I did spend five minutes  
19 with the standby lawyer that you asked me to speak with and  
20 there were some questions about how he would operate as standby  
21 counsel, which I would need to know the function of that, what  
22 length the Criminal Justice Act funds are available with the  
23 standby counsel. Those are things which are -- he had no  
24 answer to that.

25 THE COURT: Okay. And was that Mr. Webber?

1 MR. SPRINGER: No.

2 THE COURT: Mr. Williams?

3 MR. SPRINGER: Yes.

4 THE COURT: Okay. Mr. Williams, all right.

5 MR. SPRINGER: My understanding is I came out of that  
6 meeting was that he was going to be my standby counsel until  
7 further notice of the Court. And then when we were standing  
8 here, you informed him that he was not, except for that moment,  
9 so --

10 THE COURT: Well, we may get to that -- revisit that  
11 issue.

12 MR. SPRINGER: Okay.

13 THE COURT: But is your decision here today entirely  
14 voluntary, your decision?

15 MR. SPRINGER: Yes, sir.

16 THE COURT: Okay. All right. Based on what you've  
17 said, Mr. Springer, I'm going to find that you have knowingly  
18 and voluntarily waived the right to counsel and I will allow  
19 you to represent yourself. However, I do think that it's in  
20 the Court's interest to appoint standby counsel. And if  
21 Mr. Williams can fulfill that role, then I would intend that he  
22 stay on as standby counsel.

23 Now, standby counsel is not your attorney. He's really  
24 there to serve exclusively on behalf of the Court to protect  
25 the integrity and continuity of the proceedings. And what I



1 mean by that is he's sort of a safety net to ensure that you  
2 receive a fair trial, and you can consult with him as you wish,  
3 but he's also there to allow the trial to proceed without the  
4 undue delays that are likely to arise if a defendant represents  
5 himself. So it would be my intention to appoint Mr. Williams  
6 as a standby counsel for you if you're going to go ahead and  
7 represent yourself pro se.

8 MR. SPRINGER: And I would only add one thing to your  
9 statement that you find I waive my right.

10 THE COURT: Uh-huh.

11 MR. SPRINGER: That that is a contingent waiver based  
12 upon circumstances that come in the near future, such as  
13 answers to a bill of particulars and things of that nature. At  
14 this time, I agree with you, from this moment forward, I'm  
15 representing myself and have, you know, chosen to do that.

16 THE COURT: Right. And if the -- Mr. Snoke, do you  
17 wish to add anything?

18 MR. SNOKE: Your Honor, I didn't want to interrupt  
19 him. Go ahead.

20 MR. SPRINGER: Oh, no, go ahead.

21 MR. SNOKE: I was just going to say, Your Honor, from  
22 the government's perspective, we would urge the Court to follow  
23 the rules that you've been talking about here as far as  
24 appointing standby counsel. We think that (unintelligible)  
25 appointing standby counsel under the CJA, we still need some

1 sort of financial --

2 THE COURT: No, I disagree. I disagree with you,  
3 Mr. Snoke, in that regard, because they won't be paid out of  
4 CJA. It won't be an appointment under CJA. The standby  
5 counsel -- and believe me, I've spent some time trying to sort  
6 this out, but the standby counsel here is -- will be paid under  
7 a separate fund. They're paid out of separate funds. And they  
8 will serve as sort of a consultant and expert for the benefit  
9 of the defendant, but really for the benefit of the Court to  
10 make sure that we don't get into a situation where there's a  
11 breakdown.

12 Say that Mr. Springer realizes at some point I can't do  
13 this and I need counsel or the Court decides on its own that  
14 because of the way the delays that may be coming along that  
15 it's in the Court's best interest to have someone take on a  
16 more active role, at least as standby counsel, then that's  
17 their function. Under that, the Court has inherent authority  
18 without getting into the whole financial affidavit and  
19 financial wherewithal issue to appoint standby counsel for its  
20 benefit.

21 MR. SPRINGER: And I would just also say --

22 MR. SNOKE: (unintelligible)

23 MR. SPRINGER: I would also say that on my reference  
24 to CJA has to do with reading the implementation plan that the  
25 clerk's office maintains.

1 THE COURT: Right.

2 MR. SPRINGER: On how even though I don't have an  
3 attorney, I may be allowed to activate certain reserve funds  
4 for that purpose. But one of the issues that we're going to  
5 take up with the district court when a judge is assigned is  
6 that that affidavit does put us into -- at least from my  
7 perspective, puts me into a position where I'm having to  
8 surrender one right over another and I would like the Court to  
9 address that, so --

10 THE COURT: Okay. All right. Let me ask Mr. Stilley  
11 to step up here. And, Mr. Stilley, I'm going to ask you  
12 essentially the same questions. You know, now, you have  
13 studied law, correct?

14 MR. STILLEY: Yes.

15 THE COURT: And where was that? Arkansas?

16 MR. STILLEY: University of Arkansas at Fayetteville  
17 School of Law.

18 THE COURT: Okay. Have you ever represented yourself  
19 in a criminal matter?

20 MR. STILLEY: Speeding ticket.

21 THE COURT: Okay. And you understand that you're  
22 charged with the following crimes: conspiracy to defraud the  
23 government and two counts of tax evasion. You understand that?

24 MR. STILLEY: Just the -- the bare thing that you  
25 stated and it was with respect to the previous answer, lest

1 anybody think that I misstated something, I was also charged  
2 with contempt and -- criminal contempt in Arkansas. Actually,  
3 I was charged with contempt on two occasions and represented  
4 myself on both of those occasions.

5 THE COURT: Okay. Now, your license in Arkansas has  
6 been suspended; is that correct?

7 MR. STILLEY: It has been suspended pending  
8 disbarment. The disbarment trial was held in December. We  
9 finished briefing on the -- I think the 27th of this month.  
10 And we expect a decision -- or it's -- it will be in the nature  
11 of a report and recommendation probably within a month.

12 THE COURT: Okay. You're not licensed in any other  
13 state -- licensed to practice law in any other state?

14 MR. STILLEY: As far as state Supreme Court, that is  
15 correct.

16 THE COURT: Okay. All right. All right. So you  
17 understand the crimes you're charged with. You understand that  
18 the charges that you -- that are against you all carry up to a  
19 five-year prison sentence and on the tax evasion it's a fairly  
20 substantial fine. You understand that?

21 MR. STILLEY: Well, actually, I can't agree that it's  
22 up to five years. I understand what the statute says.

23 THE COURT: Uh-huh.

24 MR. STILLEY: And I understand the theory of advisory  
25 guidelines, but I just cannot believe that the right of a

1 defendant to a jury determination of the facts can be so easily  
2 dispensed with whereby that a person could be charged -- I  
3 mean, apparently, a person could be charged with having a tax  
4 deficiency of a dollar and then you get down to the sentencing,  
5 it would be a million dollars and you would be punished based  
6 on a million dollars, whereas you were charged and tried on the  
7 basis of one dollar.

8 THE COURT: Uh-huh. But you understand that the  
9 statutes, these criminal statutes have a range of punishment.  
10 And it may be that the crime, if you're describing a -- first  
11 of all, a tax issue involving a dollar, obviously, if that were  
12 even brought, it would be on the lower end of the sentence.  
13 But the sentencing range here on these charges, I just want to  
14 make sure you understand what the maximum penalty could be,  
15 that it could be up to five years on these counts.

16 MR. STILLEY: I understand that the statute says five  
17 years. I cannot agree or concede that five years is a legal  
18 sentence unless the guidelines call for it.

19 THE COURT: Okay. And you understand that a sentence  
20 could be imposed either concurrently or consecutively if you  
21 were found guilty on more than one count. Do you understand  
22 that?

23 MR. STILLEY: Only if authorized by the guidelines.

24 THE COURT: Okay. But you understand what the  
25 difference is between concurrent and consecutive sentences?

1 MR. STILLEY: Yes.

2 THE COURT: Okay. And you understand, obviously,  
3 that there are advisory sentencing guidelines that would --  
4 could have an effect on your -- any sentence imposed on you if  
5 you were found guilty?

6 MR. STILLEY: I don't concede the advisory  
7 distinction of the guidelines and I don't want to make -- I  
8 don't want to belabor the point here or make this more  
9 complicated than it needs to be, but I don't want anybody to  
10 come back later and say that Oscar Stilley conceded the  
11 legitimacy of an advisory guideline that basically amounts to  
12 you can go up, but you can't go down.

13 THE COURT: Uh-huh. Okay. But you understand that  
14 there are guidelines -- sentencing guidelines out there?

15 MR. STILLEY: Yes.

16 THE COURT: The Supreme Court has said they're  
17 advisory, not mandatory, and so courts take them into account  
18 in determining what the sentence should be within the  
19 sentencing range.

20 MR. STILLEY: In response to that question, I would  
21 say that I have a copy of the sentencing guidelines.

22 THE COURT: Okay. You understand that if you  
23 represent yourself you'll be on your own and the Court won't  
24 advise you how to try your case or try to help you in any way.  
25 You understand that?

1 MR. STILLEY: Yes.

2 THE COURT: Are you familiar with the Federal Rules  
3 of Evidence?

4 MR. STILLEY: Yes, I passed the Bar.

5 THE COURT: Okay. All right. So you understand that  
6 the rules of evidence will govern the case. And, again, just  
7 because you're representing yourself, you won't -- the Court  
8 won't cut any slack. You'll be bound by the Federal Rules of  
9 Evidence the same way that the government is bound by them.

10 MR. STILLEY: That's the only way I'd have it.

11 THE COURT: Okay. Are you familiar with the Federal  
12 Rules of Criminal Procedure?

13 MR. STILLEY: I passed the test on it.

14 THE COURT: Okay. And, again, you understand that  
15 those rules govern a criminal action, how the criminal action  
16 is tried, and you'll be bound by those rules as well. You  
17 understand that?

18 MR. STILLEY: Yes.

19 THE COURT: Okay. Again, as I said to Mr. Springer,  
20 I think the same is true here, even though you do have legal  
21 training, I still think that it's a mistake for you to  
22 represent yourself. I think a trained lawyer would better  
23 defend you than you will yourself and I think it's unwise for  
24 you to represent yourself. You have familiarity with the law,  
25 you obviously practiced for a while, but your license has been

1 suspended for whatever reason, I don't know the details of  
2 that, but I still think that a lawyer representing himself is a  
3 mistake and you would be better served if you hired or had the  
4 Court appoint counsel for you if that were possible.

5 Now, in light of the penalties we've talked about that you  
6 might suffer if you're found guilty and as well as the  
7 difficulties of representing yourself, do you still wish to  
8 represent yourself and give up your right to be represented by  
9 an attorney?

10 MR. STILLEY: Your Honor, honestly, I think I'm on  
11 the horns of a dilemma of being forced to choose which right to  
12 give up. And on the basis of that, I think that I don't have a  
13 reasonable choice other than to give up the right to  
14 representation at this point in time.

15 THE COURT: Okay. Well, now, of course, you can go  
16 out -- if you have the resources, you can go out and hire  
17 private counsel. That's up to you. If you don't have the  
18 resources to hire private counsel, if you're willing to provide  
19 adequate information to the Court to that effect, then we will  
20 appoint counsel for you. You understand that. So it's really  
21 a matter of are you willing -- you know, you making the  
22 decision, can you go hire private counsel, are you willing to  
23 -- if not, are you willing to advise the Court of that so that  
24 we can appoint counsel for you. But what you're telling me is,  
25 I guess, that you haven't hired private counsel and you don't



1 want to submit a financial affidavit or go down that route, so  
2 that leaves the third option, which is to represent yourself.  
3 Is that right?

4 MR. STILLEY: That is correct. I was -- I mean, this  
5 is going to be an issue later, that I was told by the  
6 government that I was not under criminal investigation in order  
7 to get me to come and testify before the grand jury and --

8 THE COURT: Okay. And I'm going to stop you there  
9 because I don't want you to compromise your rights, your Fifth  
10 Amendment rights either. I understand the situation.

11 I'm going to find at this time that you have knowingly and  
12 voluntarily waived the right to counsel and I'll allow you to  
13 represent yourself. Now, if this changes as we proceed here,  
14 if you decide that this -- that you come around to my way of  
15 thinking, either or both of you, it's a bad idea and you want  
16 to hire private counsel, you can do that at a later date. If  
17 you're also willing to come forward and show that you're not  
18 financially able to hire counsel, then the Court can still  
19 appoint counsel for you.

20 As I did with Mr. Springer, I will appoint standby  
21 counsel, Mr. Webber, if he's still willing to take that on.  
22 And, again, as I told Mr. Springer, standby counsel is not  
23 really your attorney. He's exclusively there on behalf of the  
24 Court to protect the integrity and continuity of the  
25 proceedings. And he's sort of a safety net to try and make

1 sure that we keep things on track, give you advice as you seek  
2 it from him to make sure you receive a fair trial, but also  
3 there to make sure that we keep the thing moving along and we  
4 get the case tried on time.

5 So have you had a chance to talk to Mr. Webber? Have you  
6 been able to feel like Mr. Webber would be all right as standby  
7 counsel for you?

8 MR. STILLEY: Actually, Your Honor, without any  
9 rancor toward Mr. Webber, I don't think that that would be  
10 satisfactory. And the reasons for that is I did talk to him on  
11 the 18th in this Court or across the hall. Later, I discovered  
12 or realized that I was not getting the documents spun out to me  
13 on ECF so I would get them by e-mail. So I called the clerk  
14 and said, hey, can I get that? And they said, well, Mr. Webber  
15 is the attorney, he's listed as the attorney, you need to get  
16 ahold of him.

17 THE COURT: Yeah.

18 MR. STILLEY: So I sent Mr. Webber an e-mail and  
19 said, Mr. Webber, would you be so kind, if there's anything  
20 that comes in on ECF, just shoot it on over to me so I'll have  
21 it. Because, you know, basically, it's just diverting the  
22 information from me. Sent that on the 24th. He didn't  
23 respond. He didn't send me the information. I would presume  
24 that even if I didn't send him an e-mail he would have some  
25 concern to make sure that notices from the Court were actually

1 sent to Oscar Stilley. And I just don't think it's a real good  
2 idea to start out with someone with that track record, without  
3 rancor to Mr. Webber whatsoever.

4 THE COURT: Uh-huh. Well, we can appoint someone  
5 else for you if you -- if that's what you wish. What will  
6 happen now, though, is with both of you on our records as pro  
7 se, that should then -- now enable you to get the notices  
8 directly. And if you then can work out the electronic part of  
9 it with the court clerks, I think you'll be getting notices  
10 electronically as well, if you can sign up for that.

11 But I think the hang-up was that when Mr. Webber and  
12 Mr. Williams were on the docket sheet as counsel, and they were  
13 still there because they hadn't withdrawn, that -- and that's  
14 -- and I'll take responsibility for that. I was trying to  
15 protect both of you at your initial appearance and  
16 arraignment. And having done that, I think it may have  
17 prevented you from getting notices directly. Now, that we  
18 enter the finding that you're voluntarily deciding to proceed  
19 pro se, you should get those -- all filings directly.

20 MR. SPRINGER: There was also a motion that I had  
21 filed asking for that, to be able to file. Is that something  
22 within the Court's power to grant at this time so that I would  
23 not have to either mail or come down every time I need to file  
24 something? Because you had mentioned four months, which I have  
25 a hard time believing that that will actually take place in

1 four months with what's going on. But it would be a great  
2 benefit to anybody, including myself.

3 THE COURT: Right.

4 MR. SPRINGER: I'm already on four cases I can  
5 electronically file. Never been accused of abusing the  
6 privilege of any kind whatsoever.

7 THE COURT: I think that's fine. I think with your  
8 entering an appearance pro se and getting registered and you've  
9 already been registered in other cases, there shouldn't be any  
10 problem, Mr. Springer.

11 MR. SPRINGER: Thank you.

12 THE COURT: If there is, bring it to the Court's  
13 attention, we'll take care of it.

14 MR. SPRINGER: Okay.

15 THE COURT: I'm told I have to grant it, so I will  
16 grant it.

17 MR. SPRINGER: Thank you. That's why I asked. Thank  
18 you very much.

19 THE COURT: We'll take care of that. And,  
20 Mr. Stilley, you want the same situation?

21 MR. STILLEY: Your Honor, I just checked this  
22 morning, my ECF works. I have no reason to believe that I  
23 would not be allowed to log on and file in the case.

24 THE COURT: Okay. All right. Okay. Then you should  
25 be all right.

1 MR. STILLEY: As long as it spins out to me, I'm  
2 happy.

3 THE COURT: Okay. All right. Now, all right, so  
4 we're over that main hurdle that I wanted to get through. But  
5 the other thing I want to address with you is when the parties  
6 envision this case going to trial.

7 Mr. Snoke, what is -- what do you think in terms of the  
8 government -- when do you think the government would be ready  
9 to --

10 MR. SNOKE: The government, as the Court knows, is  
11 (unintelligible) able to go to trial within the next 70 days.

12 THE COURT: Right.

13 MR. SNOKE: It has held things up a little bit  
14 because of the fact we don't have a judge.

15 THE COURT: And I think that will be resolved by the  
16 end of the week. I really think that that will be taken care  
17 of quickly.

18 MR. SNOKE: And that is a problem because the speedy  
19 trial clock is still running even though we don't have a judge.

20 THE COURT: Right. Right.

21 MR. SNOKE: So that's kind of (unintelligible).

22 We'll be ready to go to trial within --

23 THE COURT: The 70 days?

24 MR. SNOKE: -- the 70 days.

25 THE COURT: Mr. Springer, Mr. Stilley, what are your

1 thoughts on that?

2 MR. SPRINGER: Well, I think that -- that it's going  
3 to take a lot longer than that. I believe that there's a lot  
4 of discovery in this case that's -- I think I was told 33,000  
5 pages. I have over 150,000 that were left at my house when  
6 they raided my home.

7 THE COURT: Uh-huh.

8 MR. SPRINGER: I anticipate between 100 and 200  
9 witnesses. If we can calm that down by the government  
10 admitting that some of the money that was given they'll concede  
11 was a gift and we're only going to argue over the rest. But  
12 the other day when we were in here, they couldn't even come to  
13 an agreement on that. So I would anticipate that it's not  
14 going to be a 70-day time period based upon things that I'm --  
15 know I'm writing right now.

16 THE COURT: Okay. Well, what are you thinking? Are  
17 you thinking about the fall?

18 MR. SPRINGER: Yeah, I'm thinking the fall, if it has  
19 to go there.

20 THE COURT: And you understand that you would have to  
21 exercise and execute waivers of speedy trial?

22 MR. SPRINGER: I believe, Your Honor, that my  
23 understanding, without waiving my Fifth Amendment right, is my  
24 reading of the local rules and those rules is that as soon as a  
25 dispositive motion is filed, that that tolls the Speedy Trial

1 Act until 30 days after the last responsive pleading in that --  
2 dealing with that motion. So I would understand that part of  
3 it. It would be a waiver by my motion, but I would not consent  
4 to a waiver in any other way. I will want to go to trial as  
5 fast as I can once we get all these things. They've had, you  
6 know, since 1997 --

7 THE COURT: Right.

8 MR. SPRINGER: -- to get ready for this, you know,  
9 so --

10 THE COURT: Well, that's why I'm asking you. And if  
11 you're saying you need more time --

12 MR. SPRINGER: Yeah, I'm thinking fall. I would --  
13 I'm anticipating a good 90-day exchange here just going over  
14 discovery, suppression of evidence.

15 THE COURT: Well, we'll have to get a district judge  
16 on board and dealing with that quickly.

17 MR. SNOKE: I think we're going to have to have a  
18 district judge to deal with that.

19 THE COURT: Yeah, I think that's right.

20 MR. SNOKE: Because if he's unwilling to waive speedy  
21 trial, not that that's the be all and end all, (unintelligible)  
22 some recent Tenth Circuit cases.

23 MR. SPRINGER: Right.

24 MR. SNOKE: Nevertheless, that goes a long ways  
25 towards --

1 THE COURT: Right.

2 MR. SNOKE: -- that and it will probably be found by  
3 the district judge to be a complex case. I don't doubt that at  
4 all, the number of documents involved. But I don't think this  
5 Court can --

6 THE COURT: No.

7 MR. SNOKE: Based on what he's telling you, can put  
8 this thing off.

9 THE COURT: No, I'm not scheduling the trial. I'm  
10 just trying to get an idea so that I can advise the Court. And  
11 they're going to have to find a different judge to try the  
12 case.

13 MR. SPRINGER: What our -- what my concern right now  
14 is, is there's a local rule that says that within 11 days of  
15 some point, which I assume is today, at this moment, all  
16 dispositive motions without a court order must be filed. And  
17 I've been preparing for that, but it is a tremendous load. And  
18 so asking the Court if that 11 days can be extended, I don't  
19 know who to ask.

20 THE COURT: Well, I think that we'll know that  
21 shortly, I hope.

22 MR. SPRINGER: Okay.

23 THE COURT: Mr. Stilley.

24 MR. SPRINGER: You're not setting a trial schedule  
25 then so when that begins --



1 THE COURT: I'm not -- no, I'm not setting -- I'm  
2 just trying to get a sense here.

3 MR. SPRINGER: All right. So our 11 days -- my  
4 understanding is our 11 days still doesn't start yet because  
5 you haven't set a trial schedule.

6 THE COURT: Well, I'm not going to give you an  
7 advisory ruling on that. But, at this point, I think you're  
8 going to have to wait for the district judge to be appointed to  
9 handle it.

10 Mr. Stilley, do you have a view on when you would be ready  
11 to try the case?

12 MR. STILLEY: Well, I had presumed that the 70-day  
13 speedy trial clock would control. And my experience on that is  
14 that that's not an unreasonable clock, given the fact that  
15 certain periods are excluded. And I'm not saying that I would  
16 not at some point down the road reconsider and I might decide  
17 that I'd waive speedy trial --

18 THE COURT: To put it off?

19 MR. STILLEY: -- if I felt like it's in the interest  
20 of justice or -- there's a good reason.

21 MR. SPRINGER: Is the fall good?

22 MR. STILLEY: I don't have a problem -- I mean, it's  
23 fine by me.

24 THE COURT: Okay. All right. You know, like I said,  
25 I'm not setting the trial schedule. I'm just trying to get a

1 sense of where both sides are going in terms of when they would  
2 be prepared to put this before a jury.

3 MR. STILLEY: There is just one thing I want to make  
4 sure that on this -- on this deadline that Oscar Stilley is not  
5 going to be prejudiced by not filing a motion today. The  
6 government has already said it's their position that the --  
7 that filing of motions is premature because we don't have a  
8 district judge. And, you know, I tend to agree with that. But  
9 I don't want to let midnight roll by and not file and then  
10 later on be told, well, you messed up, you should have filed  
11 all your motions then. Particularly -- I think that it should  
12 be an easy call since we don't have discovery, we don't have  
13 particulars, we are really in no position to file any motions,  
14 except, you know, the very preliminary motions like bill of  
15 particulars.

16 THE COURT: Uh-huh. Mr. Snoke.

17 MR. SNOKE: You've always said, Your Honor, and I  
18 think in a pleading here -- in response to Mr. Springer's  
19 motions he filed on the morning of the last arraignment.

20 THE COURT: Right.

21 MR. SNOKE: And we said that we thought those were  
22 premature, although you made a general denial (unintelligible)  
23 --

24 THE COURT: Uh-huh. Uh-huh.

25 MR. SNOKE: -- and asked for more time

1 (unintelligible).

2 THE COURT: And I suspect you'll have leeway. As I  
3 say, I don't know who the judge is going --

4 MR. SNOKE: We haven't said that to Mr. --

5 THE COURT: Stilley.

6 MR. SNOKE: -- Stilley at all. And he hasn't filed  
7 any motions.

8 THE COURT: Right. I think the next step here,  
9 gentlemen, is going to be to get -- to find out who your trial  
10 judge is as quickly as we can and then -- and then as soon as  
11 that happens, then you can start --

12 MR. SPRINGER: Thank you.

13 THE COURT: -- the ball rolling with all this stuff.  
14 You know, that's going to happen, I think, pretty quick. All  
15 right.

16 MR. STILLEY: Okay.

17 THE COURT: All right. If there's nothing else, then  
18 we will be in recess.

19 MR. SPRINGER: I did have one other thing and I am --  
20 is it within the Court's power to seal any information I  
21 provide to Pretrial Services involving certain requirements  
22 that Pretrial Services is asking me to provide?

23 THE COURT: Well, that information is not shared with  
24 the prosecution. Mr. Ogle, do you want to address this?  
25 Pretrial Services is an arm of the Court, not of the --

1 MR. SPRINGER: So that -- and I read the local rule  
2 on that -- okay. That's fine. That's --

3 THE COURT: Okay? Is that all right?

4 MR. SPRINGER: I'm thumbs up on that, yeah. Thank  
5 you.

6 THE COURT: Okay. All right. Then we will be in  
7 recess. Thank you, Gentlemen.

8 (COURT ADJOURNED.)  
9

10 REPORTER'S CERTIFICATE

11 I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND  
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13 BEST OF MY ABILITY TO HEAR AND UNDERSTAND THE RECORDING:  
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